

RULES OF
DEPARTMENT OF REVENUE

CHAPTER 810-3-24

Taxation of Partnerships

TABLE OF CONTENTS

810-3-24-.01	Taxability of Partnership Income
810-3-24-.02	Computation of Partnership Income (or Loss)
810-3-24-.03	Partner's Distributive Share of Partnership Income (or Loss)
810-3-24-.04	Transactions Between Partner and Partnership
810-3-24-.05	Partner's Basis in Partnership Interest

810-3-24-.01 Taxability of Partnership Income.

(1) (a) A partnership is considered to be a "conduit" of income to each partner and not a taxable entity under Alabama income tax law.

(b) The term "partnership" includes a limited partnership as well as a general partnership, and a syndicate, group, pool, or joint venture which is not a corporation, estate, trust or sole proprietorship within the meaning of the Alabama income tax law.

(c) The term "partner" means any person who is a member of a partnership.

(d) The term "person" as used in this regulation includes an individual, corporation, fiduciary or another partnership.

(2) A partnership, once established, continues until:

(a) no part of any business, financial operation or venture of the partnership continues to be carried on by any of its partners as a partnership, or

(b) 50% or more of the total interest in partnership capital and profits is sold or exchanged within a period of twelve consecutive months.

(3) (a) Each partner shall include in gross income from all sources, the distributive share of the income (or loss) of a partnership for any partnership year ending within the partner's taxable year. For an Alabama resident, this amount will also be included in Alabama gross income.

(b) Each nonresident partner shall include in Alabama gross income the distributive share of partnership income (or loss) attributable to Alabama as provided in Reg. 810-3-24-.02(2). For the purpose of apportioning deductions based on the ratio of Alabama adjusted gross income to total adjusted gross income, total adjusted gross income will include the nonresident partner's full share of the partnership income, and not just the portion attributable to Alabama.

(4) The Internal Revenue Code contains provisions similar to those in § 40-18-24. The Department will consider administrative rulings and judicial decisions in respect to the similar provisions of federal law and regulations in interpreting this regulation.

(Adopted September 30, 1982; amended February 8, 1989, filed with LRS March 20, 1989, effective April 24, 1989)

Authors: Ecta Spicer, Roy Wiggins
and John H. Burgess

Auth: § 40-18-24

Income Tax Division

810-3-24-.02 Computation of Partnership Income (or Loss).

(1) The net income of a partnership is computed in the same manner as that of an individual, except:

(a) no deduction is allowed for a personal exemption or credit for dependents as provided in § 40-18-19, and

(b) no deduction is allowed for charitable contributions or gifts made in accordance with § 40-18-15(a)(10), and

(c) no deduction is allowed for a net operating loss carryback or carryforward as provided in § 40-18-15(a)(16), and

(d) no deduction is allowed for the additional itemized deductions provided for individuals in § 40-18-15, and

(e) no deduction is allowed for the optional standard deduction provided in § 40-18-15(b).

(2) A partnership doing business in Alabama and at least one other state must compute income attributable to Alabama in the manner provided in Reg. 810-3-31-.02 for foreign corporations.

(Adopted: June 17, 1988; Filed with LRS: July 27, 1988)

Authors: Ecta Spicer, Roy Wiggins
and John H. Burgess
Income Tax Division

Auth: § 40-18-24

810-3-24-.03 Partner's Distributive Share of Partnership Income (or Loss).

(1) A partner's distributive share of partnership income, gains, losses and deductions shall be determined in accordance with the partner's interest in the partnership (taking into account all facts and circumstances) unless -

(a) the partnership agreement provides otherwise, and

(b) the allocation to a partner in accordance with the partnership agreement is not substantially for the purpose of avoiding or evading taxation under this regulation.

(2) The character of any item of income, gain, loss or deduction included in the partner's distributive share of partnership net income (or loss) shall be determined as if such item were realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(3) (a) A partner's distributive share of partnership net income (or loss) includes any "Guaranteed Payments to Partner" as defined in Reg. 810-3-24-.04. The distributive share is included in gross income of the partner as provided in Regs. 810-3-14-.01 (for residents) and 810-3-14-.05 (for nonresidents) or 810-3-34-.01 (for corporations).

(b) A partner is also entitled to a proportionate share of any contributions made by the partnership which would be deductible under § 40-18-15(a)(10). See Reg. 810-3-15-.17.

(4) A partner's distributive share of partnership loss shall be allowed only to the extent of the adjusted basis (before reduction by the current year loss) of such partner's interest in the partnership at the end of the partnership taxable year in which such loss occurred. If a partner's distributive loss exceeds the adjusted basis in the partnership interest -

(a) the amount of the loss that exceeds the partner's adjusted basis will not be allowed as a deduction for that year, and

(b) any loss disallowed in subparagraph (a) above shall be allowed as a deduction at the end of the first succeeding partnership taxable year and subsequent partnership taxable years to the extent that the partner's adjusted basis in his partnership interest at the end of such year exceeds zero.

(5) In any case where it is necessary to determine the gross income of a partner, such amount shall include his distributive share of the gross income of the partnership.

(Adopted: June 17, 1988; Filed with LRS: July 27, 1988)

Authors: Ecta Spicer, Roy Wiggins
and John H. Burgess
Income Tax Division

Auth: § 40-18-24

810-3-24-.04 Transactions between Partner and Partnership.

(1) A partner who engages in a transaction with a partnership other than in his capacity as a partner shall be treated as if he were not a member of the partnership with respect to such transaction. In all cases the substance of the transaction will govern and not its form. The relationship between a partner not acting in his capacity as a partner and the partnership may include, but is not limited to, that of creditor-debtor, vendor-vendee and employee-employer.

(2) To the extent determined without regard to the income of the partnership, payments to a partner for services or for the use of capital shall be considered as made to one who is not a member of the partnership. Such guaranteed payments to partners shall be treated as a deductible business expense in the computation of the partnership net income.

(3) (a) Gain or loss will be recognized by a partner on a contribution of property to a partnership in exchange for an interest in the partnership to the extent provided in § 40-18-8.

(b) 1. Gain or loss will be recognized by a partnership on a distribution of property to a partner to the extent provided in § 40-18-8.

2. Gain or loss will be recognized by a partner on a distribution of property from a partnership to the extent provided in § 40-18-8.

(Adopted: June 17, 1988; Filed with LRS: July 27, 1988)

Authors: Ecta Spicer, Roy Wiggins
and John H. Burgess
Income Tax Division

Auth: § 40-18-24

810-3-24-.05 Partner's Basis in Partnership Interest.

(1) A partnership interest is personal property held for the production of income. A gain or loss from the sale or other disposition of a partnership interest must be recognized to the extent provided in § 40-18-8.

(2) The adjusted basis of a partner's interest in a partnership shall be the amount of property, including money, contributed to the partnership:

(a) increased by the sum of his distributive share (not including any "Guaranteed Payments to Partners") for the taxable year and prior taxable years of;

1. the taxable income of the partnership,
2. the income of the partnership exempt from tax, and
3. the excess of the deductions for depletion over the basis of the property subject to depletion,

(b) decreased (but not below zero) by distributions by the partnership and the sum of his distributive share for the taxable year and prior taxable years of -

1. losses of the partnership, and
2. expenditures of the partnership not deductible in computing its taxable income and not property chargeable to the capital account.

(3) (a) Any increase in a partner's share of the liabilities of a partnership, or any increase in a partner's individual liabilities by reason of the assumption by such partner of partnership liabilities shall be considered as a contribution of money by such partner to the partnership.

(b) Any decrease in a partner's share of the liabilities of a partnership, or any decrease in a partner's individual liabilities by reason of the assumption by the partnership of such individual liabilities, shall be considered as a distribution of money to the partner by the partnership.

(4) (a) If a partner makes a contribution of property subject to a liability to a partnership, and the partnership assumes the liability, the amount of the liability (not exceeding the fair market value of the property at the time of the contribution) will be considered a contribution to the partnership in the amount of the liability that is not allocated to the other members of the partnership.

(b) If property subject to an indebtedness is distributed by a partnership to a partner, and the liability is assumed by the distributee, the amount of the liability,

(not exceeding the fair market value of the property at the time of the distribution) will be considered to be a contribution to the partnership in the amount of the liability that had been allocated to the other members of the partnership.

(Adopted: June 17, 1988; Filed with LRS: July 27, 1988)

Authors: Ecta Spicer, Roy Wiggins
and John H. Burgess

Auth: § 40-18-24